

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MEMORANDUM AND ORDER

This case is before me on Plaintiff Pete Wright’s motion for an extension of time to file a notice of appeal, ECF No. [96], and motion for leave to proceed in forma pauperis on appeal, ECF No. [98]. Wright filed this lawsuit in 2018, alleging violations of his rights under the Americans with Disabilities Act. On October 5, 2021, I entered summary judgment for Defendant Missouri Department of Mental Health (the “MDMH”) and dismissed Wright’s claim with prejudice. Wright filed the present motions, along with a notice of appeal, on November 16, 2021.

Motion for an Extension of Time

Wright's motion for an extension of time will be granted. Under Federal Rule of Appellate Procedure 4(a), a notice of appeal in a civil case "must be filed with the district clerk within 30 days after entry of the judgment or order appealed from."

Fed. R. App. P. 4(a)(1)(A). A district court may extend the time, however, if two conditions are met: (1) the party seeking an extension must move for the extension within 30 days after the time prescribed by Rule (4)(a) expires; and (2) the party seeking an extension must show “excusable neglect or good cause.” Fed. R. App. P. 4(a)(5)(A). In determining whether excusable neglect or good cause exists, courts consider four factors: “(1) the danger of prejudice to the non-moving party; (2) the length of delay and its potential impact on judicial proceedings; (3) the reason for the delay, including whether it was within the reasonable control of the movant; and (4) whether the movant acted in good faith.” Treasurer, Trs. of Drury Indus., Inc. Health Care Plan and Trust v. Goding, 692 F.3d 888, 893 (8th Cir. 2012). Of these factors, “the excuse given for the late filing must have the greatest import.” Id.

Here, both conditions set forth in Rule 4(a)(5)(A) are met. I entered summary judgment for the MDMH and dismissed Wright’s claim with prejudice on October 5, 2021. Wright was required to file a notice of appeal, if any, by November 4, 2021. Wright filed his motion for an extension of time on November 16, 2021, which is well within 30 days after the time prescribed by Rule (4)(a) expired. In addition, Wright has shown good cause. Wright is confined as a civil detainee. In support of his motion for an extension of time, Wright states that he did not receive the October 5, 2021, judgment until October 15, 2021. Wright also states that, at some point, he

had his materials pertaining to the judgment confiscated. Furthermore, the danger to the MDMH and the length of Wright's delay are minimal, and there is no indication that Wright's late filing was motivated by bad faith. Given Wright's circumstances and pro se status, I find that he has shown good cause for an extension of time. Accordingly, Wright's motion for an extension of time to file a notice of appeal will be granted.

Motion for Leave to Proceed In Forma Pauperis

Wright's motion for leave to proceed in forma pauperis will be denied as moot. Under Federal Rule of Appellate Procedure 24(a)(3),

A party who was permitted to proceed in forma pauperis in the district-court action ... may proceed on appeal in forma pauperis without further authorization, unless: (A) the district court ... certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding; or (B) a statute provides otherwise.

Fed. R. App. P. 24(a)(3). Because Wright was granted leave to proceed in forma pauperis in this action, ECF No. [7], he does not need leave of court to do so on appeal. As a result, Wright's motion for leave to proceed in forma pauperis on appeal will be denied as moot. See, e.g., Frentzel v. Boyer, No. 4:05-CV-2304 CAS, 2007 WL 1342178, at *1 (E.D. Mo. May 3, 2007).

Accordingly,

IT IS HEREBY ORDERED that Plaintiff Pete Wright's motion for an extension of time to file a notice of appeal [96] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff Pete Wright's motion for leave to proceed in forma pauperis on appeal [98] is **DENIED** as moot.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 24th day of November 2021.